IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5484 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

D D PATEL

Versus

STATE OF GUJARAT

Appearance:

MR BP TANNA for Petitioner No. 1

MR D.P.JOSHI, AGP, for Respondents No. 1-2

M/S MG DOSHIT & CO for Respondents No. 1-2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 05/12/2001

ORAL JUDGEMENT

By this petition, moved on 07th November, 1984, the termination of the petitioner's service w.e.f. 02.11.1984 was challenged. A mandatory direction was issued by the Division Bench on 20th November, 1984 directing the respondent to take the petitioner back into service as work-charged clerk within one week. Thereafter the petition was admitted on 04th December,

1984. It appears from the order-sheet that thereafter neither the respondent has filed any affidavit-in-reply nor has the matter been notified for hearing till it was listed for final hearing in October, 2001.

2. The learned counsel Mr.Keriel for Mr.Tanna appearing for the petitioner submitted that not only the petitioner has remained in continuous service but apparently the impugned order (at Annexure-'E') was ex-facie, illegal and in violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947. He submitted that even before that order the petitioner had completed about five years' of service and there was no valid reason to terminate his service. In any case, after passage of about 17 years and in absence of any affidavit disputing the averments made in the petition, it would not be proper to uphold the impugned order. It was, therefore, submitted on behalf of the petitioner that rule was required to be made absolute in this petition obviously with a liberty to the respondent to take necessary action, if any, in light of long continuous service of the petitioner prior to and subsequent to the impugned order of termination.

Accordingly, the petition is allowed and the impugned order (Annexure-'E') is set aside. Rule is made absolute to that extent with no order as to costs.

(D.H.Waghela, J)

'Bhavesh'